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GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			HINZE, LEO T	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/678,151

Applicant(s)

STUBER ET AL.

Examiner

Leo T. Hinze

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8,10-20,22,23 and 25-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8,10-20,22,23 and 25-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Claim Objections*

1. Claim 5 is objected to because of the following informalities: "heating element" in line 2 lacks a proper antecedent basis.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-6, 12, 18-20, 22, 23 and 28-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Feller et al., US 6,065,402 (Feller).

- a. Regarding claim 1, Feller teaches a printing mechanism of a machine of the tobacco processing industry comprising: a tempering device (7, 9, Fig. 1), structured and arranged to adjust a temperature of ink in an ink supply (2, 3, Fig. 1) and metering device (4, 5, Fig. 1); said tempering device comprises at least one of at least one cooling element (7, 9, Fig. 1), such that said cooling element comprises a cooling plate (7, 9, Fig. 1); said ink supply and metering device being at least partially located on said cooling plate (see Fig. 1). Because the preamble is not necessary to breathe life and breadth into the body of the claim, the examiner does not consider

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the recitation of “a machine of the tobacco processing industry” to further define the structure of the apparatus. Further, because a machine of the tobacco processing industry could comprise the structure taught by Feller, Feller can be considered to be capable of being a machine of the tobacco processing industry.

b. Regarding claim 2, Feller teaches all that is claimed as discussed in the rejection of claim 1 above. Feller also teaches wherein the machine is capable of operating as a cigarette rod machine. The examiner is treating the recitation of “a cigarette rod machine” as functional language. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. Because claim 2 does not contain any further structural limitations, the examiner considers any printing machine capable of use as a cigarette machine. See MPEP § 2114. Further, because a cigarette rod machine could comprise the structure taught by Feller, Feller can be considered to be capable of being a cigarette rod machine.

c. Regarding claim 4, Feller teaches all that is claimed as discussed in the rejection of claim 1 above. Claim 4 fails to patentably distinguish over the prior art because claim 4 recites limitations to an element that is optionally recited in claim 1.

d. Regarding claim 5, Feller teaches all that is claimed as discussed in the rejection of claim 1 above. Claim 5 fails to patentably distinguish over the prior art because claim 5 recites limitations to an element that is optionally recited in claim 1.

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e. Regarding claim 6, Feller teaches all that is claimed as discussed in the rejection of claim 1 above. Claim 6 fails to patentably distinguish over the prior art because claim 6 recites limitations to an element that is optionally recited in claim 1.

f. Regarding claim 12, Feller teaches all that is claimed as discussed in the rejection of claim 1 above. Feller also teaches wherein said tempering device comprises a control or regulating unit. The cooling device “ensures that the printing ink 3 always has the same temperature” (col. 3, ll. 30-31). Because a constant temperature is maintained, a control or regulation device is inherently present to maintain this constant temperature.

g. Regarding claim 18, Feller teaches a process for printing with a printing mechanism that includes a tempering device comprising at least one of at least one cooling element, which includes a cooling plate (7, 9, Fig. 1), said process comprising: adjusting a temperature of ink in at least an ink supply and metering device in the printing mechanism via the tempering device (col. 3, ll. 30-31); wherein the adjusting of the temperature of ink comprises adjusting said ink temperature with the cooling plate (col. 3, ll. 30-31).

h. Regarding claim 19, Feller teaches all that is claimed as discussed in the rejection of claim 18 above. Feller also teaches wherein the printing mechanism is located within a machine of the tobacco processing industry. Because a machine of the tobacco processing industry could comprise the structure taught by Feller, Feller can be considered to be capable of being a machine of the tobacco processing industry.

i. Regarding claim 20, Feller teaches all that is claimed as discussed in the rejection of claim 18 above. Feller also teaches wherein said machine is a cigarette rod machine. Because a

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cigarette rod machine could comprise the structure taught by Feller, Feller can be considered to be capable of being a cigarette rod machine.

j. Regarding claim 22, Feller teaches all that is claimed as discussed in the rejection of claim 18 above. Claim 22 fails to patentably distinguish over the prior art because claim 22 recites limitations to an element that is optionally recited in claim 18.

k. Regarding claim 28, Feller teaches all that is claimed as discussed in the rejection of claim 18 above. Feller also teaches controlling or regulating the tempering device through a control or regulation device. The cooling device “ensures that the printing ink 3 always has the same temperature” (col. 3, ll. 30-31). Because a constant temperature is maintained, a control or regulation device is inherently present to maintain this constant temperature.

l. Regarding claim 29, Feller teaches all that is claimed as discussed in the rejection of claim 18 above. Claim 29 fails to patentably distinguish over the prior art because claim 29 recites limitations to an element that is optionally recited in claim 18.

m. Regarding claim 30, Feller teaches all that is claimed as discussed in the rejection of claim 18 above. Claim 30 fails to patentably distinguish over the prior art because claim 30 recites limitations to an element that is optionally recited in claim 18.

n. Regarding claim 31, Feller teaches all that is claimed as discussed in the rejection of claim 18 above. Claim 32 fails to patentably distinguish over the prior art because claim 32 recites limitations to an element that is optionally recited in claim 18.

o. Regarding claim 32, Feller teaches a machine of the tobacco processing industry comprising the printing mechanism in accordance with claim 1 (see rejection of claim 1 above).

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Because a machine of the tobacco processing industry could comprise the structure taught by Feller, Feller can be considered to be capable of being a machine of the tobacco processing industry.

p. Regarding claim 33, Feller teaches all that is claimed as discussed in the rejection of claim 32 above. Because a cigarette rod machine could comprise the structure taught by Feller, Feller can be considered to be capable of being a cigarette rod machine.

q. Regarding claim 34, Feller teaches a process for printing a paper strip in the machine according to claim 32 (see rejection of claim 32 above), said process comprising; guiding the paper strip to a printing mechanism having a tempering device (7, 9, Fig. 1; “rotary printing machine,” col. 1, l. 11 implies that a substrate is printed and guided to the printing mechanism); and adjusting at least the temperature of the ink in the printing mechanism via the tempering device (col. 3, ll. 30-31).

4. Claims 1, 2, 8, 10-14, 18-20, 25-28 and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Voge, US 6,516,721 (Voge).

Regarding claim 1, Voge teaches a printing mechanism of a machine capable of use in the tobacco processing industry comprising: a tempering device (70, Fig. 4), structured and arranged to adjust a temperature of ink in a least one of an ink nozzle (34, Fig. 4), ink supply (Fig. 4) and metering device; said tempering device comprises at least one of at least one heating device (70, Fig. 4). Because the preamble is not necessary to breathe life and breadth into the body of the claim, the examiner does not consider the recitation of “a machine of the tobacco processing industry” to further define the structure of the apparatus. Further, because a machine

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of the tobacco processing industry could comprise the structure taught by Voge, Voge can be considered to be capable of being a machine of the tobacco processing industry.

a. Regarding claim 2, Voge also teaches wherein the machine can be used as a cigarette rod machine. The examiner is treating the recitation of “a cigarette rod machine” as functional language. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. Because claim 2 does not contain any further structural limitations, the examiner considers any printing machine capable of use as a cigarette rod machine. See MPEP § 2114. Further, because a cigarette rod machine could comprise the structure taught by Voge, Voge can be considered to be capable of being a cigarette rod machine.

b. Regarding claim 8, Voge teaches all that is claimed as discussed in the rejection of claim 1 above. Claim 8 fails to patentably distinguish over the prior art because claim 8 recites limitations to an element that is optionally recited in claim 1.

c. Regarding claim 10, Voge teaches all that is claimed as discussed in the rejection of claim 1 above. Claim 10 fails to patentably distinguish over the prior art because claim 10 recites limitations to an element that is optionally recited in claim 1.

d. Regarding claim 11, Voge teaches all that is claimed as discussed in the rejection of claim 1 above. Claim 10 fails to patentably distinguish over the prior art because claim 10 recites limitations to an element that is optionally recited in claim 1.



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- e. Regarding claim 12, Voge also teaches wherein said tempering device comprises a control or regulating unit (“heating device for heating the printing ink to a predetermined temperature”, col. 2, ll. 20-22).
- f. Regarding claim 13, Voge also teaches wherein the ink nozzle is an ink nozzle (36, Fig. 4).
- g. Regarding claim 14, Voge also teaches a heating cartridge (70, Fig. 4 shows a resistor heating element) located to lie against said ink nozzle (note position of ink nozzle 36 with respect to heating cartridge 70, Fig. 4).
- h. Regarding claim 18, Voge teaches a process for printing with a printing mechanism that includes a tempering device, said process comprising: adjusting a temperature of ink in at least one of an ink nozzle, ink supply and metering device in the printing mechanism via the tempering device (col. 2, ll. 21-24). Because the preamble is not necessary to breathe life and breadth into the body of the claim, the examiner does not consider the recitation of “a machine of the tobacco processing industry” to further define the structure of the apparatus. Further, because a machine of the tobacco processing industry could comprise the structure taught by Voge, Voge can be considered to be capable of being a machine of the tobacco processing industry.
- i. Regarding claim 19, Voge also teaches wherein the printing mechanism is located within a machine of the tobacco processing industry. Voge teaches a printing machine (col. 1, ll. 9-10), and because a machine of the tobacco processing industry could comprise the structure taught by Voge, Voge can be considered to be capable of being a machine of the tobacco processing industry.

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j. Regarding claim 20, Voge also teaches wherein said machine is a cigarette rod machine. Voge teaches a printing machine (col. 1, ll. 9-10), and because a cigarette rod machine could comprise the structure taught by Voge, Voge can be considered to be capable of being a cigarette rod machine.

k. Regarding claim 26, Voge teaches all that is claimed as discussed in the rejection of claim 18 above. Claim 26 fails to patentably distinguish over the prior art because claim 26 recites limitations to an element that is optionally recited in claim 18.

l. Regarding claim 27, Voge teaches all that is claimed as discussed in the rejection of claim 18 above. Claim 27 fails to patentably distinguish over the prior art because claim 27 recites limitations to an element that is optionally recited in claim 18.

m. Regarding claim 28, Voge also teaches controlling or regulating the tempering device through a control or regulation device (col. 2, ll. 21-24).

n. Regarding claim 32, Voge also teaches a machine of the tobacco processing industry. Voge teaches a printing machine (col. 1, ll. 9-10), and because a machine of the tobacco processing industry could comprise the structure taught by Voge, Voge can be considered to be capable of being a machine of the tobacco processing industry.

o. Regarding claim 33, Voge also teaches wherein said machine is a cigarette rod machine. Voge teaches a printing machine (col. 1, ll. 9-10), and because a cigarette rod machine could comprise the structure taught by Voge, Voge can be considered to be capable of being a cigarette rod machine.

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p. Regarding claim 34, Voge also teaches guiding the paper strip to a printing mechanism (“printing machine”, col. 1, ll. 9-10 implies printing, which implies paper or other substrate on which to print) having a tempering device (70, Fig. 4); and adjusting at least one of a temperature and a viscosity of the ink in the printing mechanism via the tempering device (col. 2, ll. 21-24).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blau et al., US 2001,0013289 A1 (Blau) in view of Voge.

a. Regarding claim 1:

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Blau teaches a printing mechanism (23, Fig. 2) of a machine of the tobacco processing industry comprising a tempering device (§ 0012, lines 2-3). Blau teaches regulating certain other important parameters such as the consistency of printing ink (§0047). Blau is silent as to the exact means used to regulate the consistency of the printing ink.

Voge teaches: said heating device (70, Fig. 4) being located with at least one of said ink supply (conduit 66, Fig. 4); that heating the ink has an effect on the viscosity and consistency of the ink (col. 3, lines 20-30).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Blau to heat the ink and locate the heating device in the ink supply, because Voge teaches that heating the ink is an effective way of regulating the consistency of the ink.

b. Regarding claim 16, the combination of Blau and Voge teaches all that is claimed as discussed in the rejection of claim 1 above. Blau also teaches a plurality of distributor rollers (44, Fig. 2), a stamp roller (48, Fig. 2), and a pressure roller (52, Fig. 2), wherein two of said plurality of distributor rollers (43, 46, Fig. 2) are arranged to receive ink from said ink nozzle, and said stamp roller and said pressure roller are arranged to guide a paper strip to be printed (21, Fig. 2).

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Voge in view of Garner et al., US 5,611,278 (Garner).

Voge teaches all that is claimed as discussed in the rejection of claim 13 above, including a range of temperature and pressure, which implies sensors to ensure that proper pressure and

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temperature are obtained, although Voge is silent as to the location of such sensors (col. 3, lines 20-30).

Voge does not teach a temperature sensor positioned one of: in and on said ink nozzle.

Garner teaches a temperature controlled system for printing press, including a refrigeration and heating system (col. 2, lines 2-3), and an ink temperature sensor located in the ink supply system (col. 2, lines 11-14).

It has been held that the mere rearrangement of parts is not sufficient to patentably distinguish over the prior art. See MPEP§ 2144.04(VI).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Voge to include a temperature sensor located in or on the ink nozzle, because Garner teaches a temperature sensor located in the ink supply, and a person having ordinary skill in the art would recognize that: a temperature sensor would make the regulation of temperature more efficient and accurate by allowing the control system to know the temperature of the ink, which would allow for more precise control of the temperature of the ink; locating the temperature sensor on the ink nozzle would minimize the temperature drop of the ink after being sensed, thereby allowing more accurate control of the ink temperature of the ink deposited on the rollers.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Voge in view of Dillig et al., US 6,024,015 (Dillig).

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Voge substantially teaches all that is claimed as discussed in the rejection of claim 1 above. Voge teaches controlling the pressure of the ink (col. 3, ll. 20-30), but is silent as to any pressure measurement devices.

Dillig teaches a pressurized inking system (Fig. 1), including a pressure monitor (17, Fig. 1) to ensure that an adequate ink supply is provided at all times.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Voge to include a pressure sensor in the ink nozzle, because Dillig teaches that pressure sensors in pressurized inking systems are advantageous for ensuring that an adequate ink supply is provided at all times.

### *Response to Arguments*

10. Applicant's arguments filed 27 October 2005 with respect to claims 1, 2, 4-6, 8, 10-20, 22, 23 and 25-34 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's arguments filed 27 October 2005 with respect to the rejection of claims 1, 3, 7-9, 18, 21 and 24-26 under 35 U.S.C. 102(b) as being anticipated by Feller have been considered but are not persuasive. The examiner has set forth reasons why Feller anticipates these claims in the above rejections of claims 1, 25 and 26 above.

a. Regarding applicant's argument that Feller teaches away from the invention, a reference that anticipates each and every element of the claim language can not teach away from that claim.

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b. Regarding applicant's argument that Feller discloses an industrial printing apparatus, which does not lend itself to use in the cramped confines of a cigarette production device, it is noted that the features upon which applicant relies (i.e., the cramped confines of a cigarette production device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

c. Regarding applicant's argument that Feller fails to teach adjusting the temperature of the ink, Feller cools the ink to prevent the ink from becoming heated (col. 1, ll. 55-56).

d. In response to applicant's arguments that Blau, Voge, Garner, and Dillig fail to teach at least one cooling element, the applicant is correct. However, a cooling element is only optionally claimed in claims 1 and 18.

12. In response to applicant's argument on pp. 15-19 that Blau and Voge are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, it is not clear how the applicant is attempting to distinguish Blau and Voge. Voge is in the field of applicant's endeavor which is printing with an ink nozzle, and Voge is reasonably pertinent to the particular problem with which applicant was concerned, that of controlling the temperature of ink. Applicant appears to be attempting to destroy the combination of Blau and Voge by distinguishing the structure of the two references, specifically that "the methods of conveying the ink in each

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apparatus are distinct from each other”. However, as limited by the claims, the method of conveying ink in each apparatus is an ink nozzle, and both Blau and Voge teach ink nozzles. Further, both Blau and Voge “convey ink on the surface of a series of ink-conveying drums open to the surrounding air”, as is shown by Fig. 2 of Blau and Fig. 6A of Voge.

13. In response to applicant's arguments on pp. 16-17 that there is no suggestion to combine the references of Blau and Voge, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Blau teaches regulating certain other important parameters such as the consistency of printing ink (§0047), and Voge teaches that heating the ink has an effect on the viscosity and consistency of the ink (col. 3, lines 20-30).

14. In response to applicant's arguments on p. 17 that Voge teaches away from a combination with Blau because Voge does not lend itself to use in the cramped confines of a cigarette production machine, the examiner can find no evidence in Voge or Blau to support the applicant's assertion.

15. In response to applicant's argument that Voge and Garner are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977



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F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Voge and Garner are in the applicant's field of endeavor - printing with ink, and both are pertinent to the particular problem with which the applicant is concerned - that of controlling the temperature of ink.

16. In response to applicant's argument that Voge and Dillig are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Voge and Dillig are in the applicant's field of endeavor - printing with ink, and both are pertinent to the particular problem with which the applicant is concerned - that of metering ink under pressurized conditions.

17. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner's motivation to combine Blau and Voge, Voge and Garner, and Voge and Dillig are set forth in the rejections above.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo T. Hinze whose telephone number is (571) 272-2167. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leo T. Hinze  
Patent Examiner  
AU 2854  
05 January 2005



**ANDREW H. HIRSHFELD**  
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